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Business, Finance and Technology

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

July 24, 2008

Request for Review of a decision made by USAC – CC Docket No. 02-6

Billed Entity Number: 143365

Funding Year: 2003 (7/1/2003 – 6/30/2003)

Form 471 Number: 377799

FRN: 1036354

Decision being appealed: Administrator's Decision on Service Substitution Request dated July 17, 2008

Applicant: Alamogordo Public Schools
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I am writing to request review by the Commission of the decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) to reduce the funding commitment for FY 2003 FRN 1036354 as part of its decision to approve a second service substitution request for this FRN.

During its review of the service substitution request, SLD concluded that the original funding request included about \$16 thousand in ineligible equipment that SLD did not identify and therefore funded. Subsequently, Alamogordo Public Schools (APS) submitted the first service substitution request for this FRN, which SLD also approved.

During review of the second service substitution request, SLD concluded that there was about \$112 thousand in ineligible equipment and installation and configuration costs in the approved first substitution request and, therefore, the committed amount on the FRN must be reduced by \$87.5 thousand.

This is a five-year-old, FY 2003 FRN that was only funded after the Commission granted an appeal from APS, and it is for a disadvantaged school district in rural New Mexico. Both APS and SLD made errors on the original request and on the first service substitution. If SLD had told APS there was \$112 thousand of ineligible equipment and services in the original service substitution request, APS would have amended its request to avoid the funding cut. But SLD did not catch the ineligible equipment and did not alert APS. The second service substitution proposed to replace previously approved equipment with eligible equipment, but now SLD has determined items to be ineligible, resulting in \$87.5 thousand funding reduction that SLD implemented which withdrew approved funds for eligible equipment.

Over the past two years, the Commission has issued a series of appeals decisions that have made the E-rate program much more applicant-friendly, concluding that funding cuts were too severe a penalty for inadvertent errors, and has directed SLD to amend its procedures to help protect applicants from undue hardship for ministerial or clerical errors. We think the funding reduction SLD made to this FRN is an example of the kind of administrative action the Commission has been reversing in these appeals decisions. APS and SLD made errors that APS then (unknowingly) tried to correct, but the SLD's funding reduction punishes our district severely for an inadvertent error that SLD should have alerted us to back when the original service sub request was approved.

I ask that the Commission review the record on this matter and reverse the funding reduction SLD made to this FRN. APS will be able to use those funds to equip more of our schools.

Sincerely,



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